

IT IS VERY SEVERE

But the Law Against Chinese Must Be Enforced.

JUDGE SEVERENS IS LENIENT

Ching Jo and Sing Lee to Be Given Another Chance—A Digest of the Opinion.

Judge Severens decided yesterday in the case of Ching Jo and Sing Lee that the writ of habeas corpus, for which they applied, must be denied unless the United States district attorney will have a new arrest made and give the celestials a chance for a new trial. Judge Severens' decision was substantially as follows:

"The respondents in this case, who are Chinese prisoners, being found at Petoskey, in this district, were arrested and taken before United States Commissioner Call upon the charge of being and remaining within the United States in violation of the acts of congress excluding Chinese laborers who have entered this country since the passage of the principal act in 1882.

"Upon a summary proceeding, such as is provided for by those acts, the respondents were, on the 17th day of February last, found guilty and thereupon the commissioner sentenced them to imprisonment at hard labor for the period of twenty days in the county jail of Kent county and adjudge that they then be removed to China. They were committed to the custody of the sheriff and on the 21st instant applied to the district judge for a writ of habeas corpus, alleging that they were in custody under the aforesaid sentence and order of the commissioner setting it out in full and further alleging that the commissioner's sentence and order were not guilty. Counsel set forth a fact which they claim shows that the respondents were not amenable to that proceeding, namely, that they were lawfully residents in the United States prior to the passage of the act of 1882, above referred to.

Constitutional Rights.

"The grounds for the writ were fully argued by counsel for the respective parties, counsel for the respondents urging that the provisions of the act of May 5, 1882, prescribing the practice in such cases, do not provide due process of law in that the proceeding is summary and does not afford an opportunity for trial by jury, nor even a regular hearing in any court of justice. The statute of 1882 also declares that without any evidence the party is presumed to be guilty, and can only establish his innocence by affirmative testimony showing his right, which counsel alleged is contrary to the fundamental principles imbedded in the constitution of the United States. They further claim that the commissioner had no jurisdiction because of the fact that the respondents were residents in the country before the passage of the act of 1882.

"To us, who believe in and are not so much subject to the evils intended to be guarded against by these exclusion acts, such summary dealings with the rights of persons may seem severe. But if the power resides in congress to enact such provisions the court must presume it was exercised upon sufficient reasons. Counsel for the respondents insist, first, that certain rights are guaranteed by the constitution to all persons within the jurisdiction covered by it, among which are, the right to a trial by a jury of any fact upon the issue of which a man may be deprived of his liberty and expelled from the country, and that this is what is required by due process of law.

"It is erroneous to suppose that due process of law necessarily implies a trial by a jury, or even by a court organized according to common law forms and presiding by common law methods. It is the process of law which according to the method of legal proceedings employed in similar cases.

A Method of Removal.

"There is a great variety of special cases in which, on account of the necessity for prompt action, it has always been customary to adopt a summary method, and there is ground for supposing it to have been a controlling reason, in the enactment of the exclusion act. It is easy to see that the presence of this class of persons is regarded by congress as dangerous to our policy and institutions, and that the grand purpose of the exclusion acts is to promptly and effectually exclude their admission, and to expel them if they gain a foothold in this country.

"In respect to the allegations in the petition that the respondents are not amenable to the proceedings which the commissioner has adjudged to be taken against them, because they are exempt by reason of their residence in the United States prior to the passage of the law of 1882, it is held that I cannot on this application or on the motion to the writ, if one should be awarded, review the findings of the commissioner. If the view taken of the statute of 1882 by Judge Billings, in which he holds that it should be construed not as creating a criminal offense but as prescribing a summary method of removal, and regarding certain detention as an incident, is, as I am inclined to think, the sentence in this case, should have been, that the respondents should be imprisoned until they should be deported, but not longer than one year. The sixth amendment to the constitution secures to the accused person in all criminal proceedings the right to a trial by jury. The statute does not make provision for such trial. It is clear therefore that the statute in question cannot be construed as creating a criminal offense or as declaring a punishment appropriate thereto without rendering it obnoxious to the sixth amendment.

Power of Congress.

"The sentence in this case, was that the respondents should be imprisoned for twenty days and then removed. In my opinion the petitioners are entitled to the writ for the purpose of relief from that portion of the sentence which prescribes a definite term of imprisonment.

"The other part of the commissioner's order was proper upon the finding of the fact. The parties held are mere youths and were arrested at a considerable distance from their residence, and are condemned to be transported away from the relatives or friends they may have in this country and to be landed anywhere in a wide empire, perhaps a thousand miles from the place which they left in their childhood, but I can see no way to avoid the danger of what may seem a wrong, consistently with the law, unless the district attorney will consent that the writ may go and the prisoners be discharged to the end that new proceedings may be instituted. If such is not given the writ must be denied."

"Congress has the power to prevent such persons, being aliens, from entering this country, and the reasons which support that power are equally cogent to authorize them to expel them after they have become residents. The case therefore falls within that class where summary proceedings are admissible because customary.

"Second—It is said that the rights of the respondents are violated because a presumption is raised against them, and the burden of proof laid upon them to prove their exemption. No distinct provision of the constitution is invoked in support of this proposition, but it is said to be contrary to fundamental principles. The force of this proposition grows weak when we take into view the circumstances. The persons brought before the commissioner belonged to a class obnoxious to the operation of the statute and interdicted by it, and they may only escape by showing that they do not come under the general condemnation. The means of showing this are presumably within their own control. It would in most instances be impracticable for the government to bring proof of the negative that the respondents are not within the exemption. Such circumstances are the basis of the rule of evidence which devolves the burden upon the party who presumably has the best means of proving the fact.

"Third—In behalf of the respondents it is also said that this statute denies them the equal protection of the law, and is therefore void, and Section 1 of the fourteenth amendment is invoked. To this it must be replied that the initial provisions of that section, are laid upon the several states and have no reference to legislation by congress.

District Attorney Palmer will announce today what action he will take.

NO USE FOR AGENTS

Fruit Growers Will Mostly Buy Their Trees Direct

FROM REPUTABLE NURSERIES

Meeting of the Grand River Valley Horticultural Society Yesterday.

President Pearce presided at the February meeting of the Grand River Valley Horticultural society yesterday. Some forty were present. The subject, "When, How and Where to Purchase Nursery Stock and Seeds, and What to Buy for Market and Experimentation," was exhaustively discussed.

Charles W. Garfield was to leave at the close of the morning session for the State Horticultural meeting at Benton Harbor, so he was asked to speak first. He spoke chiefly in advocacy of unity between the local fair associations. He said the Kent County Agricultural society must have back its old members and get back to the old plan in order to make the fair a success. The Kent county people had no choice, however, to contract from the West Michigan society. It desired the Horticultural society to take charge of the horticultural display at the Kent county fair. On motion of R. M. Kellogg of Ionia the proposition was adopted.

Mr. Garfield advised a following of the English plan of holding horticultural meetings, in which the meetings are always supplemented by a display of the products, and the competition as to the choicest specimens becomes very great. The speaker also suggested plans for increasing the membership, and was followed by the president, who appealed to those present to urge on fruit growers the good returns from the \$1 membership fee. The society, he said, contained a man skilled in every branch of horticulture, and it was impossible to ask a practical question which the society could not profitably answer.

Delegates to Benton Harbor.

On motion of Mr. Garfield, credentials were furnished every member who would go to Benton Harbor to the State Association meeting. Messrs. Garfield, Pearce, Kellogg, Post and Munson announced that they would go. "When, How and Where to Purchase Nursery Stock and Seeds" was discussed entertainingly and instructively most of the afternoon. In opening the president congratulated Michigan pomologists on the new line of boats from Frankfort by which twenty-one loaded cars are taken quickly across the lake without breaking bulk. W. N. Cook exhibited some Michigan grapes kept in sealed crocks, which were absolutely perfect.

Testimony as to the breaks of the temperature were given, showing a variety of 12 to 25 degrees below zero in the coldest weather at various points in Kent, Ottawa and Ionia counties. None reported any frozen peach buds.

They're Up to Snuff Now.

The subject of nursery stock brought out a spirited discussion. All were united on one point, viz: To beware of the tree agent. R. M. Kellogg, of Ionia, said that fifteen years ago it would have been considered impertinent to ask a man where he bought trees. It was now becoming harder to do an illegitimate business, and nurserymen could no longer palm off poor articles by the wholesale on the unsuspecting horticulturist. When such societies as this are in existence the tree agent has a rocky road to travel. He related an amusing experience he had in Rochester buying a load of trees of one alleged variety, and seeing them sold afterwards to another buyer as an entirely different variety. Some members vouched for the integrity of certain nurserymen and the subject of trees, the formation of clubs for their purchase, and other means of self protection were discussed by many members.

Michigan, the president remarked, is demonstrated to be a model fruit raising state by the present condition of the weather. The blizzard had raged in Wisconsin, but on reaching Michigan it was tempered to only a mild breeze. The subjects of seeds and various pomological experiments, were discussed, and the association adjourned after an interesting and profitable session.

Annual Statements Filed.

The following companies filed annual statements yesterday: Adolph Lettelt Iron Works—Capital stock, \$100,000; paid in, \$100,000; real estate, \$98,219.63; personal estate, \$61,924.15; debts, \$64,126.14; credits, \$11,310.49.

Goshen Carpet Sweeping Company—Capital stock, \$100,000; capital subscribed, \$57,000; paid in, \$57,000; real estate, —; personal estate, \$70,223.15; debts, \$41,462.61; credits, \$19,722.52.

Valley City Desk Company—Capital stock, \$10,000; paid in, \$8,000; real estate, —; personal estate, \$18,131.75; debts, \$8,979.49; credits, \$10,441.90.

Grand Rapids Engraving Company—Capital stock, \$10,000; paid in, \$10,000; real estate, —; personal estate, \$8,623.50; debts, \$5,014.2; credits, \$3,113.13.

The Snow Church Company—Capital stock, \$10,000; paid in, \$3,000; real estate, —; personal estate, \$1,730.16; debts, \$2,222.94; credits, \$7,214.51.

Builders' Banquet Tomorrow.

The first banquet of the Builders' and Trades' exchange will be given tomorrow night in the Morton home. Invitations have been received by the leading contractors of Muskegon, Kalamazoo and Holland, and several of them are expected to be present. The menu will be elaborate and the occasion a jolly one.

Contagious Diseases.

Joseph Pallen, No. 135 Fremont street, whooping cough; Ross and Marcella Pallen, same; Ross, Thomas, corner Hall and Buchanan street, measles.

Burial Permits.

Miera Anasluk, No. 131 Anter street, Valley City.

Help At Last.

Thirty Weeks Sick, the Last Twenty Weeks Confined to Bed.

My wife has been sick about thirty weeks, and the last twenty weeks confined to bed, had five doctors, but no benefit; got worse all the time and the doctors said no one could help her; she got weaker and weaker all the time and had dreadful pains and could not stand alone, when, in company with my wife's brother, I called on Dr. S. Clay Todd, 16 North Division street, room 4, and gave him an account of her case. He prepared some medicines, and I began giving them to her. From the start the medicines helped her as Dr. Todd said they would, and she gradually improved and today, after about four weeks using Dr. S. Clay Todd's medicines, she is able to walk ten feet without assistance.

JACOB ZUIDERFELD, 320 Lohan street, Grand Rapids, Mich. January 21, 1893.

NOTE—This patient suffered, gradually recovering her health, has attracted more attention than any case of sickness in Grand Rapids for many years. Her physicians failed utterly to give any relief until she was treated by Dr. S. Clay Todd; then she gradually got better.

ARE YOU ALWAYS SLEEPY?

Do you get up at night? Can you control your urine? Is there pain in your back? Or nervous prostration? Or nervous debility? Or impotency? Ever lost rheumatism? Have catarrh? Have you deafness? Or noises in the head? Have you frightful pains in your lungs? Is your breath short? Do you dream? Is stomach weak? Do you feel worn out? Is there a sense of emptiness? Pains in back of head? Do your urine settle? Urinecloudy or cloudy deposit? How long this way? Married or single? What about now? Then write or call on Dr. S. Clay Todd, No. 16 North Division street, three doors north of Monroe street, Wenham block, rooms 1, 2 and 3, Grand Rapids, Mich. He is the famous Specialist. Physician who is curing all these dreadful complaints.

WASTE NO MORE TIME

With those useless and injurious medicines, such as tonics, stimulants, narcotics and opiates, sleep-producing drugs, bandages or instrumental appliances, they are of no avail, the disease is still there and can only be cured by Dr. S. Clay Todd, 16 North Division street, three doors north of Monroe street, Wenham block, rooms 1, 2 and 3, Grand Rapids, Mich. Consultation free and confidential. No charge for service until cured.

Don't waste your time and money. No running to drug stores. Better medicines for chronic diseases can be had of Dr. S. Clay Todd at his office, 16 North Division street, three doors north of Monroe street, Wenham block, rooms 1, 2 and 3, Grand Rapids, Mich. He is the famous Specialist. Physician who is curing all these dreadful complaints.

YOUNG AND MIDDLE AGED

Nervous debility, nervous weakness, resulting from early indiscretions and excesses of mind, overwork of the brain, improper treatment of some other disease, improper use of instruments in examination and treatment of some other disease, hereditary weakness, etc., causing lost manhood, impotency, barrenness, inability to collect ideas or remember a thing, further degeneration, making the sufferer lose confidence in every one, even himself, causing continual worry and anxiety about his future, and causing insanity, one form of deafness, paralysis, nervousness, and heart disease, inability to conduct business, etc.

This disease, with all its complications, is always cured by Dr. S. Clay Todd, 16 North Division street, rooms 1, 2 and 3, Grand Rapids, Mich. Call immediately.

CONSUMPTION CURED

IN HASTINGS, MICH.

Dr. S. Clay Todd, Grand Rapids, Mich. Treats you—1 am well. You can put any testimonial in print that you want to for I had everything. Mrs. W. E. ALLEN, State Street, Hastings, Mich. Oct. 24, 1892.

NOTE—Mrs. Allen had consumption, tuberculosis, consumption, with all its complications, and was cured by Dr. S. Clay Todd, after her case was given up by her physicians, family and friends.

RUPTURES CURED \$5.00!

No Trust! No Surgical Operation!

Dr. S. Clay Todd guarantees to reduce the rupture one-third in one-half of 24 hours. Medicine sent everywhere if you send \$5 to Dr. S. Clay Todd, 16 North Division street, Grand Rapids, Mich.

The Roots, Herbs, Barks, etc., are shipped directly to Dr. S. Clay Todd from the countries where they grow, and are compounded and dispensed by him. Medicines sent to all parts of the world. Make one call, if possible, or write about your complaint in your own language.

THE WOMAN'S FRIEND!

The Ball Has Started to Roll!

ON MARCH 31, 1893,

The Herald will present to the most popular School Teacher a handsome WHEELER & WILSON NO. 9 SEWING MACHINE. A fac-simile is here presented. It speaks for itself.

Indications point toward a spirited contest. Each school boy has his favorite "School Mar'm." They are beginning to show their preference by sending in their ballots.

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CONSUMPTION CURED

RUPTURES CURED

THE BALLOT!

For the Wheeler & Wilson No. 9 Sewing Machine!

The most popular Lady Teacher in Grand Rapids is Miss..... School..... Date.....1893.

CUT THE ABOVE OUT AND SEND TO THE BALLOT EDITOR OF THE HERALD.

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DR. PRICE'S

Cream Baking Powder.

The only Pure Cream of Tartar Powder—No Ammonia, No Alums.

Used in Millions of Homes—40 Years the Standard.

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